

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Civil Action No.:

ABIODUN OYEWOLE

AKA TUNES BY DUNE,

Plaintiff,

-against-

JURY TRIAL DEMANDED

**COMPLAINT FOR:**

- (a) DECLARATORY JUDGMENT
- (b) MONETARY DAMAGES
- (c) INJUNCTIVE RELIEF
- (d) CONSTRUCTIVE TRUST
- (e) AN ACCOUNTING

RITA ORA, ROC NATION, KELLY SHEEHAN,  
ANDREW HARR and JERMAINE JACKSON,  
individually, and collectively p/k/a THE RUNNERS,  
TRAC-N-FIELD ENTERTAINMENT LLC,  
ANDRE DAVIDSON and SEAN DAVIDSON,  
individually, and collectively p/k/a THE MONARCHS  
BERRY GORDY JR., SONY/ATV MUSIC, KOBALT  
MUSIC PUBLISHING LTD, DOWNTOWN MUSIC  
PUBLISHING LLC, NOTORIOUS B.I.G. ESTATE,  
a/k/a THE ESTATE OF GEORGE L. WALLACE,  
OSTEN HARVEY JR, p/k/a EASY MO BEE,  
BEE MOE EASY MUSIC, UNIVERSAL RECORDS,  
EMI MUSIC PUBLISHING, JOBETE MUSIC,  
JUSTIN COMBS COMPANY, STONE DIAMOND MUSIC CORP.,  
WARNER/CHAPPELL MUSIC, INC., UNIVERSAL  
MUSIC PUBLISHING GROUP, TREVOR TAHiem  
SMITH, JR., p/k/a, BUSTA RHYMES, and MARSHALL,  
MATHERS, p/k/a EMINEM,

Defendants.

Jointly and Severally.

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Plaintiff Abiodun Oyewole alleges as follows:

This is an action by Abiodun Oyewole, a.k.a. Tunes By Dune, to seek copyright infringement,  
constructive trust, an accounting and injunctive relief against Defendants RITA ORA, ROC

NATION, KELLY SHEEHAN, ANDREW HARR and JERMAINE JACKSON, individually, and collectively p/k/a THE RUNNERS, TRAC-N-FIELD ENTERTAINMENT LLC, ANDRE DAVIDSON and SEAN DAVIDSON, individually, and collectively p/k/a THE MONARCH, BERRY GORDY JR., SONY/ATV MUSIC, KOBALT MUSIC PUBLISHING LTD, DOWNTOWN MUSIC PUBLISHING LLC, NOTORIOUS B.I.G. ESTATE, a/k/a THE ESTATE OF GEORGE L. WALLACE, OSTEN HARVEY JR, p/k/a EASY MO BEE, BEE MOE EASY MUSIC, UNIVERSAL RECORDS, EMI MUSIC PUBLISHING, JOBETE MUSIC, JUSTIN COMBS COMPANY, STONE DIAMOND MUSIC CORP., WARNER/CHAPPELL MUSIC, INC., UNIVERSAL MUSIC PUBLISHING GROUP, TREVOR TAHIEM SMITH, JR., p/k/a, BUSTA RHYMES, and MARSHALL MATHERS, p/k/a EMINEM, under the Copyright Act of 1909 and 1976, 17 U.S.C. § 101, § 501(b).

Jurisdiction

1. This Court has jurisdiction under 28 U.S.C. §1331 because federal question jurisdiction arises pursuant to §1338(a) and §1367.

Venue

2. Venue in this district is proper pursuant to 28 U.S.C. §1391(b) and §1400(a).

Parties

3. Plaintiff Abiodun Oyewole a.k.a. Tunes by Dune, is a resident of New York, New York.

4. Defendant Rita Ora, upon information and belief, is a British artist signed to Defendant Roc Nation and, in 2012 when she released the allegedly infringing song "*How We Do (Party)*" and is a resident of North London, England.
5. Defendant Roc Nation, upon information and belief, is a limited liability company, with an entity address located in Beverly Hills in the State of California.
6. Upon information and belief, Defendant Kelly Sheehan is a resident of Los Angeles, California and is a songwriter.
7. Andrew Harr and Jermaine Jackson, individually and collectively as the music producers, p/k/a The Runners, upon information and belief, are music producers residing in Miami, Florida.
8. Upon information and belief, Defendant Jermaine Jackson is a resident of Florida, and managing member of Defendant Trac-N-Field Entertainment LLC, limited liability company in the State of Florida.
9. Upon information and belief, Defendant Andrew Harr is a resident of Florida
10. The Monarch is a Grammy nominated music production duo residing in the State of Florida, consisting of Defendant Andre Davidson and Defendant Sean Davidson.
11. Upon information and belief, Defendant Berry Gordy Jr. is a resident of the State of California.
12. Defendant Sony/ATV Music, upon information and belief, is a corporation pursuant to the State of California, maintaining an office within the State of New York.
13. Defendant Kobalt Music Publishing Ltd., upon information and belief, is a London-based company with offices located in New York and Los Angeles, CA.
14. Defendant Downtown Music Publishing LLC, upon information and belief, is a limited liability company pursuant to the laws of the State of New York.

15. Christopher Wallace, better known by stage name "The Notorious B.I.G." or "Biggie Smalls," is deceased in 1997. Upon information and belief, Defendant The Notorious B.I.G. Estate a/k/a The Estate of Christopher Wallace, is managed by his widow, Faith Evans, and his mother, Violetta Wallace, as co-executors, residing in California and Florida respectively.
16. Upon information and belief, Defendant Osten Harvey Jr., known by the stage name "Easy Mo Bee," is a resident of New York, New York and is a song writer.
17. Defendant Bee Moe Easy Music, upon information and belief, is a company operating within the State of New York.
18. Upon information and belief, Defendant Universal Music Publishing Group, Inc. is a corporation within the State of California, with its headquarters located in Santa Monica, CA.
19. Upon information and belief, Defendant EMI Music Publishing Ltd is a multinational music publishing company, headquartered in London, United Kingdom, maintaining offices within the State of New York. Upon information and belief, Defendant EMI is an entity owned by a consortium led by Defendant Sony/ATV Music Publishing, and forms part of the largest music-publishing corporation in the world.
20. Defendant Jobete Music Co., Inc., upon information and belief, is a music publishing company based in Los Angeles, California. Since July 1, 1997, Jobete Music Co., Inc. has been operating as a subsidiary of EMI Group.
21. Defendant Justin Combs Company, upon information and belief, is the publishing company of Sean Combs, an artist and founder of Bad Boy Records, located in the State of New York, which is now a division of Sony Music Entertainment.

22. On or about October 5, 2015, Defendant Sean Combs' Bad Boy Entertainment teamed up with Epic Records and Sony Music LLC. The exclusive partnership provides a home for Bad Boy artists covering customary label services including promotion, marketing, sales and distribution.
23. Defendant Stone Diamond Music Corp., upon information and belief is a music publishing company based in the United States. Since July 1, 1997, Stone Diamond has been operating as a subsidiary of EMI Group.
24. Upon information and belief, Defendant Warner/Chappell Music, Inc. is a corporation with its headquarters in within the State of California, and maintaining an office in the State of New York.
25. Defendant Universal Records, upon information and belief, is a corporation formed and operating pursuant to the laws of the State of California.
26. Defendant Trevor Tahiem Smith Jr., p/k/a Busta Rhymes, upon information and belief, is a resident of the State of New York.
27. Defendant Marshall Bruce Mathers III, p/k/a Eminem, upon information and belief, is a resident of the State of Michigan.

**Preliminary Statement**

***Abiodun Oyewole, Author and Music Industry Pioneer***

28. Plaintiff Oyewole is an actively recording artist and worldly known poet involved in songwriting, lyric authorship, poetic expressions, and other creative work. As a pioneer in the music industry, Plaintiff is known as a founding member of the spoken-word group The Last Poets, which first recorded rap records in the United States. The Last

Poets have been considered having laid the foundation for the emergence of hip hop music and honored in the music industry.

29. The Plaintiff is the owner of the exclusive lyric, poem, and also copyright for the musical composition "*When the Revolution Comes*" which repeatedly used the hook, "*Party and Bullshit*".
30. "*Party and Bullshit*" became a notable signature in rap and hip hop culture coined by Plaintiff's phrase "*We run through the streets...*" and "*Party and bullshit.*"
31. In 1968, Plaintiff created and published "*When the Revolution Comes*" as a sound track to the movie *Last Poets* (1968).
32. Douglas Music Corporation's interest in the work of Abiodun Oyewole ceased in 1968 and all rights reverted to the Plaintiff. Plaintiff had duly registered his interest to his work "*When the Revolution Comes*" with a copyright notice.
33. In 1970, the song "*When the Revolution Comes*" was included in the album of *Last Poets*. Plaintiff filed a "notice of Copyright Use" listing himself, Abiodun Oyewole, as the Author.
34. As noted, Plaintiff filed his recent copyright certificate SR 756-198 in 1990.
35. In 1993, the song "*When the Revolution Comes*" was again included and released in the 25<sup>th</sup> Anniversary of the *Last Poets* album.
36. In 1996, Plaintiff had his book, *On a Mission*, copyrighted by filing PA0000800131/1996 copyright for performance in addition to TX0004422381/1996.
37. Plaintiff, as the sole owner of the "*When the Revolution Comes*", owns exclusive right for all lyrics, text, punch line music sound and text featuring the track "*When the Revolution Comes*" and exclusive copyright for the punch line expression, hook sound, lyrics of "*Party and Bullshit.*"

38. Moreover, Plaintiff is the beneficial equity owner of an exclusive right under 17 U.S.C. § 501 (b) subject to section 411 of the copyright filed in 1970 Copyright Form U. Plaintiff is also the copyright claimant of SR 756-198 published in 1990 which entitled *Return of the Last Poets – When the Revolution*.
39. Plaintiff Abiodun Oyewole has various Certificates of Copyright Registration from the Register of Copyright office: a) "*When the Revolution Comes*"; (copyright interest), created in 1968©; b) "*When the Revolution Comes*" 25th Anniversary (sound and lyrics copyright work created in 1968) 1993; and c) "*On a Mission Selected poems and a History of the Last Poets*" 1996 (copyrighted).

***The First Level of Infringement: The Notorious B.I.G.***

40. Christopher G. Wallace, better known by stage name "The Notorious B.I.G." or "Biggie Smalls," is deceased as of 1997. In mid 1992, Defendant Sean Combs signed Wallace to the imprint label "Bad Boy Records". Combs helped Wallace release the solo track "*Party and Bullshit*."
41. Defendant Osten Harvey, Jr., cooperated with Wallace, wrote the song "*Party and Bullshit (1993)*". Sampling Plaintiff Oyewole's song "*When the Revolution Comes*", Osten and Wallace remixed the featured refrain "*Party and Bullshit*" without authorization.
42. In April 1993, absent prior consent or agreement, Wallace released the infringing solo track "*Party and Bullshit (1993)*" to the film *Who's the Man?*.
43. In 1994, Wallace's single "*Party and Bullshit (1993)*" was performed at a concert with Tupac Shakur, and subsequently, was used to remix several times.

44. Defendant Osten Harvey, a/k/a Easy Mo Bee is a co-writer of the Wallace solo track, “*Party and Bullshit*.”
45. Plaintiff expressed his intentions to put a stop to the alleged infringement but, soon after, Wallace passed away. Upon Wallace’s passing, Plaintiff did not except further infringement and therefore, had no reason to hassle Wallace’s widow or mother following the loss of their loved one.
46. However, recently Defendant Notorious B.I.G.’s Estate licensed, distributed, recorded produced, copied, synchronized, and broadcasted advertisement for the promotion of Defendant Rita Ora in her hit single “*How We Do (Party & Bullshit)*”.

***Subsequent Levels of Infringement: Rita Ora, Busta Rhymes, Eminem, Among Others***

47. On March 20, 2012, Defendant Rita Ora released “*How We Do (Party)*” in United States for digital download. “*How We Do (Party)*” borrowed the refrain, punch line, crescendo, text hook “Party and Bullshit” coined by Plaintiff in the song “*When the Revolution Comes*”.
48. Upon information and belief, “*How We Do (Party)*” was co-written by a group of songwriters lead by Defendant Kelly Sheehan and Defendant Berry Gordy, Jr., produced by The Runners and The Monarch.
49. The Runners is an American production duo from Orlando, Florida, consisting of Defendants Andrew Harr and Jermaine Jackson.
50. Defendant Runners, through Defendant Trac-N-Field Entertainment LLC co-produced “*How We Do (Party)*”.
51. The Monarch is a Grammy nominated music production duo from Orlando, Florida, consisting of Andre Davidson and Sean Davidson.

52. Upon information and belief, on or about April 11, 2012, a nine-second teaser of the video for the song, "*How We Do (Party & Bullshit)*" was posted on VEVO.
53. The Defendants did not credit Plaintiff Oyewole nor secure permission for the punch line text, commercial expression, hook lyrics, but continued to sell Plaintiff's copyrighted hook signature lyrics and recordings in various media forms.
54. Defendant Justin Combs Publishing Company is one of the producers of Rita Ora's song "*How We Do (Party)*," admin by Defendant EMI Music.
55. Defendant Jobette Music is a producer of Rita Ora's song "*How We Do (Party)*."
56. Defendant Stone Diamond is a producer of Rita Ora's "*How We Do (Party)*."
57. Defendant Notorious B.I.G. LLC is listed as one of the writers of Rita Ora's "*How We Do (Party)*."
58. Defendant Trac-N-Field Entertainment LLC is a producer of Rita Ora's "*How We Do (Party)*."
59. Defendant Sony/ATV Music is a publisher of Rita Ora's "*How We Do (Party)*."
60. Defendant Kobalt Music Publishing Ltd is a publisher of Rita Ora's "*How We Do (Party)*." and of Defendants Busta Rhymes and Eminem's "*Calm Down*", a 2014 song which wrongfully exploit's Plaintiff's original lyrics
61. Defendant Downtown Music Publishing LLC is a publisher of Rita Ora's "*How We Do (Party)*."
62. Defendants Universal Music Publishing Group, Inc. and EMI Music Publishing Ltd, Jobete Music Co., Inc. Warner/Chappell Music and Universal Music Publishing Group published the aforementioned infringing works of Defendant Rita Ora as well as that of Christopher Wallace.

63. Defendants unlawfully used Plaintiff's copyrighted work without Plaintiff's consent or authorization in violation of Plaintiff's rights under the United States Copyright Act, 17 U.S.C. §501 (b) and §506, in digital and various forms and mechanical use and have published and continue to misappropriate, publish and distribute Plaintiff's "Party and Bullshit" crescendo, hook, text, lyrics and or sound of the Plaintiff's work from "When the Revolution Comes" by the way of but not limited to ringtones "digital downloads", "CD distribution", "concerts", "public performances", "sound recordings", "musical compositions", "commercials", "advertisements", etc.
64. In 2013, the Defendants were publicly notified by copyright filing of 1970 and additional filings, and have not accounted to Plaintiff as the writer and/or copyright holder for monies received and interest collected from all sources and licenses to third parties.
65. Plaintiff Abiodun Oyewole has never authorized Defendants to use the hook or lyrics and has not received any royalties from the various sales or licenses of Defendants' work nor Rita Ora's album "*How We Do (Party & Bullshit)*" nor the other Defendants' recordings and licenses to third parties.
66. The Defendants' actions, it is respectfully submitted, should be seen as egregious and excessively callous in their disregard of Plaintiff, as an icon and industry pioneer who, as a spoken word artist, assisted in paving the way for subsequent artists, now called rappers.
67. The Defendants knew or should have known that the aforementioned lyrics were taken from Plaintiff's "*When the Revolution Comes*" with the sole purpose of challenging and encourage people to NOT party, but to move towards success. Therefore, this particular infringement is excessively egregious, as Defendants knowingly used the

words without permission, knowing they would not have received Plaintiff's permission when their intent was to use said lyrics in contravention of the original purpose. Accordingly, Defendants fail and refuse to acknowledge Plaintiff's rights and continuously reap the benefit of his proprietary interests in his intellectual property.

**Count I**

**(Copyright Infringement and Declaratory Relief)**

**(Copyright Act of 1976/17 U.S.C. §101)**

68. Plaintiff re-alleges paragraph 1 through 67 as fully set forth herein.
69. By the acts described above, the Defendants' intentionally infringe on Plaintiff Abiodun Oyewole's copyrights and/or property rights in Mr. Oyewole's works with full knowledge of Mr. Oyewole's copyright by the way of copyright use form U registered in 1970, PA0000800131/1996, TX 0004422381/1996, and SR 756-198.
70. The infringement of Plaintiff's sound hook and lyrics rights utilized in and sampled or recorded in Defendants' sound recordings incorporating or sampling Plaintiff's work constituted a separate and distinct act of infringement and non-payment of royalties.
71. Based on Defendants' acts, Plaintiff seeks copyright infringement against EMI and Defendants seeking, inter alia, damages and permanent injunctive relief to address and prevent any further willful copyright and anticipated infringement of Plaintiff's copyrighted coined hook rap phrase "party and bull or bullshit" by Defendants who have wrongfully appropriated and exploited the punch line, performance, lyrics, poem, rhythmic line, text performed that became popular as a hip hop phrase "party and bullshit" written and performed by Plaintiff Abiodun Oyewole, from his lyrics and text of "When the Revolution Comes" as well as certain Plaintiff's rhythmic lyrics

recordings embodying the “Party and Bullshit” hook expression cited in the copyrighted works of Abiodun Oyewole. The precise amount of Plaintiffs’ damages and losses will be proven at trial, but, upon information and belief, Plaintiff alleges that their damages and economic losses, exclusive of interest and costs, will total in excess of Twenty-Four million (\$24,000,000.00) Dollars, statutorily or royalties unaccounted of Plaintiff.

**Count II**  
**(Constructive Trust)**

72. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 71 as though fully set forth herein.
73. Defendants and their agents are holding monies or royalties and property belonging to Plaintiff in constructive trust as to their unauthorized recordings.
74. Defendants’ agents and associates have intentionally converted monies and royalties from various sources owed to Plaintiff for its own use.
75. A constructive trust should be impressed for the purpose of preventing unjust enrichment by the Defendants for the unauthorized use of the Plaintiff Oyewole’s copyrights.
76. The precise amount of Plaintiffs’ damages and losses will be proven at trial, but, upon information and belief, Plaintiff alleges that their damages and economic losses, exclusive of interest and costs, will total in excess of Twenty-Four million (\$24,000,000.00) Dollars, statutorily or royalties unaccounted of Plaintiff.

**Count III**

**(Accounting)**

77. Plaintiff re-alleges, as though fully set forth, the allegations contained in paragraphs 1 through 76 of the Complaint as though fully set forth herein.
78. At all times herein mentioned, Defendants, arranged for the sale, digital distributions, licensee fees, and publishing of records, CDs, audiotapes, and MP3s of the recorded performance of "How We Do (Party & Bullshit)" and unauthorized recordings.
79. Defendants have stalled refused, and continue to fail and refuse, to render such an accounting and to pay such sum.
80. The amount of monies due from Defendants to Plaintiff is unknown to Plaintiff and cannot be ascertained without an accounting of the receipts and disbursements of the aforementioned transactions. Upon information and belief, the amount due to Plaintiff exceeds Twenty-Four Million (\$24,000,000.00) Dollars.
81. As a result of the wrongful taking of the interest of such copyright, Plaintiff has been unable to use or invest his proprietary interests in his intellectual property with such interest. Plaintiff has been injured and damaged and demanded an accounting of the aforementioned transactions from Defendants.

**Count IV**

**(Injunctive Relief)**

**(CPLR 6301)**

82. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1 through 81 of the instant Complaint as though fully set forth herein.

83. Plaintiff has sustained and continues to sustain damages, but cannot determine Defendants' production and delivery of all contracts, documents, files, royalty statements and agreements. However, Defendants have been effecting or relating to the aforementioned music recordings and publishing transactions of each and every recording that have used Plaintiff's copyrighted interests.
84. As a result of Defendants' conduct, Plaintiff has suffered and continues to suffer irreparable injury. Plaintiff cannot be adequately compensated in damages, and is without an adequate remedy at law because the exact amount of damage.
85. Unless enjoined by the Court, Defendants, their agents, attorneys, employees, officers, representatives, affiliates, subsidiaries and assigns and those who are acting in active concert or participation with them will continue to wrongfully misappropriate and exert dominion and control over Plaintiff's interests in the income derived from "When the Revolution Comes" and "The Last Poets" in a manner that denies Plaintiff's rightful share, or is inconsistent with Plaintiff's rights.
86. Accordingly, Plaintiff seeks a temporary restraining order enjoining Defendants, their agents, attorneys, employees, officers, representatives, affiliates, subsidiaries and assigns and those who are acting in concert with them from appropriating and exerting dominion and control over the income derived from lyrics , sound recording and literary work of Plaintiff's signature phrase "party and bullshit" from the performance sound and lyrics "When the Revolution Comes" and "The Last Poets" album recording and precluding Defendants from entering into any agreements effecting the rights of "When the Revolution Comes" and "The Last Poets" ,," precluding Defendants from collecting or expending proceeds of any unapproved income derived from the usage of the Plaintiff's coined phrase "Party and Bullshit", "When the Revolution Comes" and

“The Last Poets”, until this dispute is resolved, ordering Defendants to deliver copies of all documents, files, agreements of every kind or nature affecting or relating to Plaintiff’s foregoing rights to Plaintiff’s counsel, and appointing a Special Master to coordinate the production of said documents and the determination of the amount of damages incurred.

**Prayer for Relief**

**WHEREFORE**, Plaintiff respectfully requests:

87. The Defendants to provide Plaintiff with an accounting of their financial records and to pay over to Plaintiff all profits, gains and other unjust enrichment sums determined to be attributable to Defendants’ wrongful acts and to pay over to Plaintiff account for all profits realized from their improper conduct challenged herein;
88. Imposing a constructive trust on all profits realized from Defendants’ improper conduct challenged within and awards compensatory damages in an amount to be determined upon the proof submitted;
89. Granting Plaintiff’s request for injunctive relief;
90. Appointing a Special Master to coordinate and oversee the production of the required documents, as well as overseeing the preservation and accounting of the assets at issue;
91. Granting Plaintiff their attorneys fees and costs;
92. The Defendants be required to pay over any punitive damages as may be permitted by law or in the discretion of the court; and
93. Such other further relief that this court deems just and appropriate.

**Demand for Jury Trial**

94. Plaintiff hereby sincerely demands a jury trial on all issues raised in this complaint.

Dated: New York, New York  
February 2, 2016

Respectfully Submitted:



Nzengha Waseme, Esq.

40 Wall Street, 28<sup>th</sup> Fl.  
New York NY 10005

Tel: 212-507-9618  
Fax: 347-765-1615

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Case No.:

ABIODUN OYEWOLE  
AKA TUNES BY DUNE,

Plaintiff,

-against-

RITA ORA, ROC NATION, KELLY SHEEHAN,  
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p/k/a EMINEM,

Defendants.

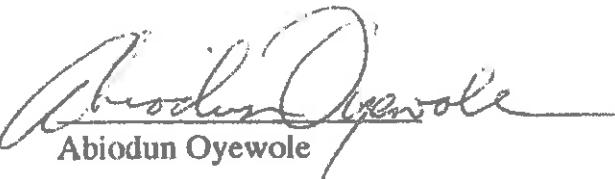
Jointly and Severally.

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**VERIFICATION:**

ABIODUN OYEWOLE, being duly sworn, deposes and says that I am the Plaintiff in the above-named proceeding and that the statements made in the foregoing Complaint are true to my own knowledge, except as to matters

therein stated to be alleged on information and belief and as to those matters  
I believe them to be true.



Abiodun Oyewole

Sworn to before me on:

Date: 2-11-16



Notary Public

A. NZENGHA WASEME  
Notary Public, State of New York  
No. 02WAC-00138  
Qualified in New York County  
Commission Expires December 12, 2016